



OLD VALUES - NEW HORIZONS

COMMUNITY DEVELOPMENT

3 North Lowell Road Windham, New Hampshire 03087

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www.WindhamNH.gov

Approved Planning Board Minutes

Wednesday, January 13, 2016

7:00pm @ Town Hall

Alan Carpenter, Chairman –Present
Kristi St. Laurent, Member - Present
Margaret Crisler, Member - Present
Kathleen DiFruscia, Alternate - Present
Ross McLeod, Alt Selectmen - Excused
Joel Desilets, Selectman/Alt. – Present remotely (speakerphone)

Paul Gosselin, Vice-Chairman - Present
Dan Guttman, Member - Present
Ruth-Ellen Post, Member – Present
Matt Rounds, Alternate - Present
Gabe Toubia, Alternate – Present

STAFF:

Elizabeth Wood, Community Planner
Suzanne Whiteford, Minute Taker

Call to Order/Attendance/Pledge of Allegiance

Ms. DiFruscia recused herself from Citizens Petitions

2016 Town Meeting Public Hearings on Citizen's Petitions:

Citizen's Petition #1: Impervious Surface of Lots (Section 616.6.4.2)

To amend Section 616.6.4.2 of the zoning ordinance proposes to state that "For purposes of this section 'impervious surface' shall not include roofs where clean rainwater is transmitted to a recharge system meeting New Hampshire Department of Environmental Services requirements.

A letter from Andrew Sullivan to the Town Administrator dated 1/13/2015 was read into the record per Chairman Carpenter. Chairman Carpenter instructed the Planning Board that Mr. Sullivan's letter does not impact the process

Chairman Carpenter polled the Planning Board for their position on Citizen Petition #1.

Mr. Guttman stated he has significant concerns with regards to porous surface to exclude roofs because they are a porous surface.

Ms. St. Laurent stated she does not agree with the requested amendment.

Ms. Post stated she is reserving her comments until after public comment.

Ms. Crisler was one of the original petitioners of the overlay and protection of the watershed. Ms. Crisler stated she is opposed to this petition

Mr. Rounds stated he is opposed to the citizen's petition.

Mr. Toubia stated he is opposed to the citizen's petition.

Mr. Gosselin stated he has concerns and commented if there are NH environmental standards they may not be Windham town standards.

Mr. Desilets stated he does not support Citizen's Petition #1.

Chairman Carpenter believes it is the responsibility of the Planning Board to balance the desire of the specific land owner and the best interest of the community. When dealing with water quantity and quality there is nothing to trump it especially in lieu of resident testimony about water.

Chairman Carpenter opened the hearing for public input

Thomas LeClair 22 Turtle Rock Road stated the following points:

- President of Cobbetts Pond Improvement association
- Opposed to the citizen petition
- 3 members of the association are here to speak on behalf of the association

Bob Hartzel with Geosyntec consultants gave a presentation on lake aging which will be placed on file with the town. Some of items Mr. Hartzel addressed are:

- NHDES 303 (d) Impairments to Cobbett's Pond.
- Historical trends analysis.
- NH DES annual report (graph) tracking the impairments to Cobbett's Pond.
- Something must be done to reverse the trend of impairments.
- Conductivity and chloride.
- Canobie Lake Watershed, impact of the overlay.
- The ordinance in relation to the impervious watershed.
- Rooftop runoff water is not clean rain water are not clean rainwater with perspective to lake quality.
- The pollutants of concern are the same between the roofs and the pavement.

Mr. Gosselin asked Mr. Hartzel if the developer puts in a water treatment system would the water coming off the roof be less of a concern.

Mr. Hartzel has not seen anything that will treat phosphorous to a level that is satisfactory. While it may be technically possible, it is not typically seen.

Ms. St. Laurent asked Mr. Hartzel in terms of water quality and quantity with regards to the recharge loop volume, the water is getting recharge at particular points; how effective is the recharge system?

Mr. Hartzel replied that the answer would be site specific. It is important to make sure the water goes back into the ground where it actually falls to prevent an area of the stream diking up. You want to avoid grabbing all the water and putting it in one spot.

Mr. Crisler is facing the question over and over again, as most commercial property is in the watershed which is: How can we be sure the end product is as good as the natural product?

Mr. Hartzel commented that over an acre of land developed requires a special permit regarding the watershed. The problem is making sure it is being done correctly and the enforcement of the permit is difficult. The developer should have as built plans and the town should make sure the final product is what was permitted.

Bill Schroeder, 14 Woodvue Road stated the following points:

- President of the Canobie Lake Watershed association.
- Speaking on behalf of the association.
- Top 10 reasons to vote no:
 1. Will permit a much more dense development
 2. The proposed change is not necessary
 3. Any change to **Section 616.6.4.2 of the zoning ordinance** needs to be carefully considered and worded.

4. The Planning Board considered the definition of impervious surface and included roofs. Why change now? Nothing has changed in watershed protection.
 5. 30% impervious surface is not a magic number. It is a scientific calculation. Roofs are part of the equation. 10% is recommended by NHDES.
 6. The proposed change would apply to all development in the area. All could be built very densely.
 7. The petition references a recharge system meeting NHDES requirements. What requirements? There are no references available.
 8. Alteration of terrains rules apply only to developments with over 2 acres. What rule applies to an area not large enough to require an AOT permit
 9. What happens to residential lots? If roofs are excluded the residential development could have very large driveways.
 10. Location of i93 is in close proximity of the two lakes. The Exit 3 interchange invites commercial development very close to the lakes. We have a real need to welcome development and protect the lakes. We have to insist on developers adhering to the ordinances, and not weaken the ordinance which is what the petition would do.
- Vote no

Louis Pereira, 29 Farmer road mentioned the following points:

- Lives on Cobbetts pond
- Ask the PB to vote against the citizen petition
- The ordinance itself allows the owners to do development.
- The spirit and intent of the ordinance was the development be low impact.
- Requesting the Planning Board to honor the spirit and intent of the ordinance so development remains low impact.
- Developers from out of state promises to take precautions during construction. What is the long term plan after the developer completes construction.
- Vote against the petition.

Joe Bradley, 85 Kendall Pond stated the following points:

- CPIA
- The Ordinance was overwhelmingly voted for by the town.
- Citizen's petition is the wrong way to go about a change to this ordinance.
- Look at unintended consequences. Could have a site developed totally impervious and that is not the spirit of the ordinance.
- Jeopardizing the lakes for a marginal tax revenue gain is not worth it.
- The petition is rushed, reckless, and would ask to have the Planning Board to vote against the petition.

Motion by Ms. Crisler to not recommend Citizen's Petition #1.
Second by Ms. Post

Mr. Desilets thanked everyone that spoke, and stated he echoes their comments.

Chairman Carpenter read letters of opposition to Citizen's Petition #1 from Mr. Landry, Mr. Valvo, Mr. Dooley, Mike and Julie Carrozzella, and Mr. Eriksen into the record.

Ms. Post congratulated everyone that spoke for their fact based and rational appeal to vote against the Citizen Petition #1. Removing the rooftops from the 30% calculation could potentially triple the size of the driveways. Residential property values are tied to the quality of the lakes and are worth protecting.

Mr. Rounds asked what the NH DES requirements are when the developer references them especially based on the testimony,

Mr. Gosselin stated he agrees with Mr. Rounds

Ms. St. Laurent stated she does not see how the few words in a citizen's petition would address the issue.

Motion amended by Ms. Crisler to move to disapprove Citizen's Petition #1

Second Ms. Post

Vote by roll call

Mr. Guttman yes

Ms. St. Laurent yes

Ms. Post yes

Ms. Crisler yes

Chairman Carpenter yes

Mr. Desilets yes

Mr. Gosselin yes

Motion passes 7-0-0

Citizen's Petition #2: Building Height in Gateway Commercial District (Section 701.1)

To amend Section 701.1 of the zoning ordinance pertaining to state "The height of any occupiable space in any building shall not exceed thirty-five (35) feet except that in the Gateway Commercial District the occupiable space in a building containing a 'Hotel/Inn' may be forty-two (42) feet provided said building is located at least four hundred (400) feet from any residential structure. In no case shall the height in an airport approach zone established by the New Hampshire Aeronautics Commission exceed the height limit established by said commission.

Joanne Welch, 56 Turtle Rock Rd stated the following points:

- Opposed to the citizen petition
- The height should not be allowed especially for a hotel.
- An increased height would mean more water usage.
- If this passes it would open the flood gates for everyone running amuck.
- The current language of Section 616.6.4.2 of the zoning ordinance was thought out carefully.
- Would like the Planning Board to maintain the ordinance until new evidence comes in for changing it.

Louis Pereira, 29 Farmer road stated the following points:

- Disapproves the citizen petition for the same reasons given in opposition to citizen's petition #1.
- Building taller is a way of increasing the impact on that development to the watershed.

Betty Dunn stated the following points:

- Echoed what has been said.
- If this is approved we have greater density in the gateway district which is predominantly in the watershed.
- It is not keeping with what is in the master plan regarding what the interface of the town is to the public.
- The master plan defines what the town wants to portray as the towns face to the world.

Mr. Guttman thanked Ms. Dunn for her comments. The density comment is very helpful, it clarifies the impact of building outward vs. upward.

Kathleen DiFruscia, speaking as a Windham resident stated the following points:

- Concurs with all comments made about the height.
- When going up it is also going out the length of the building and the impact on the density is significant.
- Ask the Planning Board to not approve because of the unintended consequences.

Ms. St. Laurent would like the Planning Board to have a full discussion of bldg. height. The Citizen Petition is not the way to go about it, there are too many unanswered questions.

Mr. Gosselin stated he agrees with Ms. St. Laurent. The petition is to make one change for one individual use. It is not ok to make a change for one entity.

Ms. Post stated she agrees with comments that have been made. Ms. Post stated she needs a reason for changing the zoning ordinance, how does it benefit the town, and what is the rationale. None of those things have been presented.

Mr. Desilets commented that the petition is in the spirit and intent with the Gateway District.

Ms. Crisler stated she agrees with the comments that have been made. Ms. Crisler does not want high buildings visible to people coming off exit 3.

Mr. Toubia stated he does not want to see the esthetics of the town change to include high buildings.

Chairman Carpenter echoes Ms. St. Laurent comments in opposing the citizen petition; this is not the best way to go about a change, it requires conversation. Chairman Carpenter agrees with Mr. Gosselin the Planning Board can't single out one entity and not allow it for other buildings.

Motion by Ms. Crisler to disapprove Citizen Petition #2

Second by Mr. Guttman

Vote by roll call

Mr. Guttman	yes
Ms. St. Laurent	yes
Ms. Post	yes
Ms. Crisler	yes
Chairman Carpenter	yes
Mr. Desilets	No
Mr. Gosselin	yes

Vote 6-1-0 Mr. Desilets voted against the motion

Motion carries

Ms. DiFruscia excused at this time.

2016 Town Warrant Finalization & Board Recommendation w/Attorney Bernie Campbell

Consideration of Planning Board Amendment #1: Open Space Residential Overlay District

Motion by Mr. Guttman to recommend to move Planning Board Amendment #1: as drafted to the warrant.

Second by Ms. Post

Vote by roll call

Mr. Guttman	yes
Ms. St. Laurent	yes
Ms. Post	yes
Ms. Crisler	yes
Chairman Carpenter	yes
Mr. Desilets	yes
Mr. Gosselin	yes

Vote 7-0-0

Motion passes

Motion by Guttman to recommend Planning Board Amendment #1 to the warrant

Second by Ms. Post

Vote by roll call

Mr. Guttman **yes**

Ms. St. Laurent **yes**

Ms. Post **yes**

Ms. Crisler **yes**

Chairman Carpenter **yes**

Mr. Desilets **yes**

Mr. Gosselin **yes**

Vote 7-0-0

Motion carries

Consideration of Planning Board Amendment #2 Market Square Overlay District

A letter by Mr. Gallagher was read into the record by Chairman Carpenter

Ed Gallagher, President WEDC mentioned the following:

- Speaking on behalf of the WEDC.
- This is something that strongly needs the Planning Board's support and it is the right thing to do to have it on the ballot for the public to vote on.
- As a citizen, there needs to be a balance of commercial and residential. Both ordinances allow to solve some of the town's problems.
- The power of this Board is how you vote for the article.
- Asking for unanimous approval.
- It is vital for the town future, send a strong signal that recognizes the hard work between the WEDC and Planning Board.

Ms. Crisler stated she is opposed for the following reasons:

- This is not good for the town.
- It is very visible.
- Will be adding high volume to an area creating more salt and pollution to the ponds.
- Cannot vote for it because it would be very detrimental to the lakes.
- Skeptical of the economic benefit to the town.
- Cannot possibility equate to Lynnfield.
- Ms. Crisler recently heard first hand that the Lynnfield shopping center is not how it was presented.
- The Village Center District has been long planned and development is starting.
- PB& T will be low impact to the environment.

Ms. Post made the following comments:

- In no way opposed to a walkable mixed use development.
- The same description exists for the Village Center District.
- Per the 2005 Master Plan, it emphasizes the village center district is to be the center piece of town.
- The Market Square is weakening the emphasis on the Village Center District.
- PB&T has a unique value that Ms. Post states she wants to see preserved.
- The state has finally released ownership of some areas and Ms. Post would like to see a collaborative effort for PB&T low impact development.

Mr. Desilets made the following comments:

- In strong support of the overlay district.
- Thanked the Planning Board for working on the subcommittees to put this together with the WEDC.
- The product is something to be proud of.

- This is the development we need in Windham for other PB&T businesses to consider Windham to move into town

Mr. Rounds stated it is time for the citizens to decide if they want this.

Ms. St. Laurent made the following comments:

- Adopting this as an overlay district does not take away the potential use of PB&T.
- It is uniquely located between I-93 and Route 111. It is a good intersection to consider this type of development. They will be developed by people who are looking to get a return on their investment.
- The Market Square District will be complimentary to the Village Center District.
- Ms. St. Laurent supports the market square overlay.

**Motion by Mr. Gosselin to recommend to move Planning Board Amendment #2 to warrant as drafted
Second by Mr. Desilets**

Vote by roll call

Mr. Guttman	yes
Ms. St. Laurent	yes
Ms. Post	No
Ms. Crisler	No
Chairman Carpenter	yes
Mr. Desilets	yes
Mr. Gosselin	yes

Vote 5-2-0 Ms. Post and Ms. Crisler opposed for reasons previously stated.

Motion carries

Motion by Mr. Gosselin to recommend approval of Planning Board Amendment # 2

Second Desilets

Vote by roll call

Mr. Guttman	No
Ms. St. Laurent	yes
Ms. Post	No
Ms. Crisler	No
Chairman Carpenter	yes
Mr. Desilets	yes
Mr. Gosselin	yes

Vote 4-3-0 Mr. Guttman, Ms. Post, and Ms. Crisler opposed.

Motion carries

Consideration of Planning Board Amendment #3: Retail Uses in the Professional, Business, and Technology District (Section 614)

Motion by Gosselin to approve moving Planning Board Amendment #3 as drafted to warrant.

Second by Mr. Desilets

Vote by roll call

Mr. Guttman	No
Ms. St. Laurent	yes
Ms. Post	No
Ms. Crisler	No
Chairman Carpenter	yes
Mr. Desilets	yes
Mr. Gosselin	yes

Vote 4-3-0 Ms. Post, Ms. Crisler, and Mr. Guttman opposed.

Motion carries

Motion by Gosselin to recommend Planning Board Amendment # 3 for approval.

Second by Ms. St. Laurent

Vote by roll call

Mr. Guttman	yes
Ms. St. Laurent	yes
Ms. Post	yes
Ms. Crisler	yes
Chairman Carpenter	yes
Mr. Desilets	yes
Mr. Gosselin	yes

Vote 4-3-0 Mr. Guttman, Ms. Post, and Ms. Crisler opposed

Motion carries

Consideration of Planning Board Amendment #4: Demolition Delay Ordinance (Section 719)

Motion by Mr. Guttman to move Planning Board Amendment #4 as written to warrant

Second by Ms. Post

Mr. Gosselin is opposed; the new time periods are excessive

Mr. Desilets echoes Mr. Gosselin's comments

Ms. Crisler commented this is very small time compared to some places that have a one-year delay

Mr. Guttman echoes Ms. Crisler, we are talking about historic demolition and that needs to be carefully considered and not rushed.

Ms. Dunn doesn't see anything in the proposal preventing the person from starting parallel planning at the same time. It is not delaying anyone.

Vote by roll call

Mr. Guttman	Yes
Ms. St. Laurent	yes
Ms. Post	Yes
Ms. Crisler	Yes
Chairman Carpenter	yes
Mr. Desilets	yes
Mr. Gosselin	yes

Vote 7-0-0

Motion carries

Motion by Mr. Guttman to recommend Planning Board Amendment #4 for approval.

Second by Mr. Desilets

Vote by roll call

Mr. Guttman	Yes
Ms. St. Laurent	Yes
Ms. Post	Yes
Ms. Crisler	Yes
Chairman Carpenter	Yes
Mr. Desilets	No
Mr. Gosselin	No

Vote 5-2-0 Mr. Gosselin and Mr. Desilets opposed

Motion carries

Consideration of Planning Board Amendment #5: Watershed Pervious Surfaces (Section 616)

Motion by Ms. Crisler to move Planning Board Amendment #5 as drafted to warrant.

Second by Mr. Guttman

Vote by roll call

Mr. Guttman	Yes
Ms. St. Laurent	Yes
Ms. Post	Yes
Ms. Crisler	Yes
Chairman Carpenter	Yes
Mr. Desilets	Yes
Mr. Gosselin	Yes

Vote 7-0-0
Motion carries

Motion by Mr. Guttman to recommend Planning Board Amendment #5 for approval.

Second by Mr. Gosselin

Vote by roll call

Mr. Guttman	Yes
Ms. St. Laurent	Yes
Ms. Post	Yes
Ms. Crisler	Yes
Chairman Carpenter	Yes
Mr. Desilets	Yes
Mr. Gosselin	Yes

Vote 7-0-0

Motion carries

Consideration of Planning Board Amendment #6: Vernal Pools (Section 716)

Motion by Mr. Gosselin to moved Planning Board Amendment #6 as written to warrant.

Second by Mr. Guttman

Vote by roll call

Mr. Guttman	Yes
Ms. St. Laurent	Yes
Ms. Post	Yes
Ms. Crisler	Yes
Chairman Carpenter	Yes
Mr. Desilets	Yes
Mr. Gosselin	Yes

Vote 7-0-0

Motion carries

Motion by Mr. Guttman to recommend Planning Board Amendment #6 for approval.

Second by Mr. Gosselin

Vote by roll call

Mr. Guttman	Yes
Ms. St. Laurent	Yes
Ms. Post	Yes
Ms. Crisler	Yes
Chairman Carpenter	Yes
Mr. Desilets	Yes
Mr. Gosselin	Yes

Vote 7-0-0

Motion carries

Consideration of Planning Board Amendment #7: Expiration of Cobbetts Pond and Canobie Lake Watershed Overlay District Approvals (Section 616)

Motion by Ms. Crisler to move Planning Board Amendment #7 as drafted to warrant.

Second Mr. Desilets

Vote by roll call

Mr. Guttman	Yes
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Ms. St. Laurent	Yes
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Ms. Post	Yes
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Ms. Crisler	Yes
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Chairman Carpenter	Yes
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Mr. Desilets	Yes
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Mr. Gosselin	Yes
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Vote 7-0-0

Motion carries

Motion by Mr. Guttman to recommend Planning Board Amendment #7 for approval

Second by Mr. Desilets

Vote by roll call

Mr. Guttman	Yes
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Ms. St. Laurent	Yes
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Ms. Post	Yes
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Ms. Crisler	Yes
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Chairman Carpenter	Yes
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Mr. Desilets	Yes
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Mr. Gosselin	Yes
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Vote 7-0-0

Motion carries

Consideration of Planning Board Amendment # 8: Wetland and Watershed Protection District Marking & Approvals (Section 601)

Motion by Mr. Guttman to move Planning Board Amendment #8 as drafted to warrant

Second by Ms. Post

Vote by roll call

Mr. Guttman	Yes
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Ms. St. Laurent	Yes
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Ms. Post	Yes
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Ms. Crisler	Yes
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Chairman Carpenter	Yes
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Mr. Desilets	Yes
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Mr. Gosselin	Yes
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Vote 7-0-0

Motion carries

Motion by Mr. Guttman to recommend Planning Board Amendment #8 for approval.

Second by Ms. Post

Vote by roll call

Mr. Guttman	Yes
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Ms. St. Laurent	Yes
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Ms. Post	Yes
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Ms. Crisler	Yes
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Chairman Carpenter	Yes
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Mr. Desilets	Yes
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Mr. Gosselin	Yes
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Vote 7-0-0

Motion carries

Consideration of Planning Board Amendment #9: Preexisting Nonconforming Signs (Section 706.3)

Vote by roll call

Mr. Guttman	Yes
Ms. St. Laurent	Yes
Ms. Post	Yes
Ms. Crisler	Yes
Chairman Carpenter	Yes
Mr. Desilets	No
Mr. Gosselin	Yes

Recommended by the Planning Board 6-1-0

Consideration of Planning Board Amendment #10: Temporary Signs (Section 706.6)

Vote by roll call

Mr. Guttman	Yes
Ms. St. Laurent	Yes
Ms. Post	Yes
Ms. Crisler	Yes
Chairman Carpenter	Yes
Mr. Desilets	No
Mr. Gosselin	Yes

Recommended by the Planning Board 6-1-0

Mr. Desilets excused from the meeting at 9:14pm

Planning Board meeting is recording but not broadcasting because due to technical issues.

Board Article Assignments: Town Meeting Items

Vernal pools	St. Laurent
CPCL Watershed Ordinance	Mr. Guttman
CPCL Watershed Ordinance	Mr. Toubia
Wetland and Watershed Protection District	Mr. Toubia
Demolition Delay Ordinance	Ms. Crisler
Open Space Subdivision: Yield Plan	Ms. Post and Mr. Gosselin
Signs: Temporary	Ms. Crisler
Signs: Pre-Existing Non-Conforming Sign	Mr. Gosselin
Market Square Overlay District	Mr. Desilets and Ms. St. Laurent
Professional Business and Technology District Allowed Uses	Mr. Gosselin and Mr. Rounds

Motion by Mr. Guttman to approve the minutes of October 21, 2015 as amended

Second by Ms. Post

Vote 4-0-1 Ms. Crisler abstained

Motion carries

Motion by Ms. Crisler to approve the minutes of November 4, 2015 as amended

Second by Mr. Guttman

Vote 5-0-1 Ms. Post abstained

Motion carries

Motion by Ms. Crisler to approve the minutes of November 11th, 2015 as amended

Second by Mr. Gosselin

Vote 6-0-0

Motion carries

Motion by Ms. Crisler to approve the minutes of November 18th, 2015 as amended

Second by Mr. Gosselin

Vote 6-0-0

Motion carries.

Motion by to adjourn by Mr. Gosselin

Second by Mr. Guttman

Meeting adjourned at 9:53pm

These minutes respectfully submitted by Suzanne Whiteford.